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Attorneys for Plaintiffs SAN LUIS & DELTA-  
MENDOTA WATER AUTHORITY and  
WESTLANDS WATER DISTRICT

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

SAN LUIS & DELTA-MENDOTA  
WATER AUTHORITY and  
WESTLANDS WATER DISTRICT,

Plaintiffs,

v.

U.S. DEPARTMENT OF THE  
INTERIOR; GALE A. NORTON, as  
Secretary of the U.S. Department of the  
Interior; U.S. FISH AND WILDLIFE  
SERVICE; STEVE WILLIAMS, as  
Director, Fish and Wildlife Service, U.S.  
Department of the Interior; STEVE  
THOMPSON, as Operations Manager,  
California/Nevada Operations Office,  
Fish and Wildlife Service, Pacific Region,  
U.S. Department of the Interior; ANNE  
BADGLEY, as Regional Director, Fish  
and Wildlife Service, Pacific Region,  
U.S. Department of the Interior,

Defendants,

NATIONAL RESOURCES DEFENSE  
COUNCIL, et al.,

Intervenor-Defendants.

CASE NO. CIV F-02-6461 OWW DLB

**JOINT STIPULATION SETTLING  
CLAIMS FOR ATTORNEYS' FEES AND  
COSTS RELATED TO FIRST CLAIM AND  
ORDER**

Plaintiffs San Luis & Delta-Mendota Water Authority and Westlands Water  
District (collectively, "Plaintiffs") and Federal Defendants United States Department of the

1 Interior; Gale A. Norton, Secretary of the Interior; United States Fish and Wildlife Service (the  
2 “Service” or “FWS”); Steve Williams, Director, FWS; Steve Thompson, Operations Manager,  
3 California/Nevada Operations Office, FWS; and Anne Badgley, Regional Director, FWS  
4 (collectively, “Federal Defendants”), by and through their undersigned counsel, say as follows:

5 WHEREAS, on November 22, 2002, Plaintiffs filed a complaint initiating the  
6 present action;

7 WHEREAS, the First Claim in Plaintiffs’ complaint alleged that the Service had  
8 failed to conduct a five-year review of the listing status of the delta smelt, a fish, as required by  
9 Section 4(c)(2) of the Endangered Species Act (“ESA”);

10 WHEREAS, Plaintiffs’ First Claim was resolved on June 19, 2003 when the Court  
11 entered a stipulated settlement agreement (the “Agreement”) submitted by the parties;

12 WHEREAS, under § 7 of that Agreement, Federal Defendants agreed to pay the  
13 “reasonable attorneys’ fees and costs” attributable to Plaintiffs’ First Claim for relief;

14 WHEREAS, Plaintiffs have now presented Federal Defendants with a claim for  
15 attorneys’ fees and costs attributable to their First Claim for relief in this matter;

16 WHEREAS, the parties agree that it is in the interest of the parties and judicial  
17 economy to settle this claim for attorneys’ fees and costs without protracted litigation; and,

18 WHEREAS, the parties enter this Stipulation without any admission of fact or law,  
19 or waiver of any claims or defenses, factual or legal.

20 NOW, THEREFORE, Plaintiffs and Federal Defendants hereby Stipulate and  
21 Agree as follows:

22 1. Federal Defendants agree to settle Plaintiffs’ claim for the costs and  
23 attorneys’ fees attributable to Plaintiffs’ First Claim for relief in this matter for a total of \$22,000.  
24 Payment will be made by wire transfer pursuant to instructions to be provided by Plaintiffs.

25 2. Federal Defendants agree to submit all necessary paperwork to the  
26 Department of the Treasury’s Judgment Fund Office pursuant to 16 U.S.C. § 1540(g)(4) within  
27 ten (10) business days of receipt of the signed court order approving this stipulation.

28 3. Plaintiffs agree to accept payment of \$22,000 in full satisfaction of any and

1 all claims for attorneys' fees and costs of litigation attributable to Plaintiffs' First Claim for relief  
2 in this matter, including any and all attorneys' fees and costs incurred compiling, presenting, and  
3 negotiating their claim for attorneys' fees and costs.

4 4. Plaintiffs agree that receipt of this payment from Federal Defendants shall  
5 operate as a release of Plaintiffs' claims for all attorneys' fees and costs attributable to Plaintiffs'  
6 First Claim for relief in this matter, and also any and all attorneys' fees and costs incurred  
7 compiling, presenting, and negotiating their claim for attorneys' fees and costs. Plaintiffs reserve  
8 their claims for attorneys' fees and costs that are attributable to the Second, Third, Fourth and  
9 Fifth Claims for relief in this matter.

10 5. By this Agreement, Federal Defendants do not waive any right to contest  
11 any further fees or costs claimed by Plaintiffs or Plaintiffs' counsel, including the hourly rate, in  
12 the present litigation or any future litigation. Further, this stipulation has no precedential value  
13 and shall not be used as evidence in any other attorneys' fees litigation.

14 Respectfully submitted,

15 Dated: June 22, 2005

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United States Department of Justice  
Environment and Natural Resources Division  
JEAN E. WILLIAMS, Chief  
LISA L. RUSSELL, Assistant Chief

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24 Dated: June 22, 2005

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26 By \_\_\_\_\_  
27 Daniel J. O'Hanlon  
Attorneys for Plaintiffs SAN LUIS & DELTA-  
28 MENDOTA WATER AUTHORITY and  
WESTLANDS WATER DISTRICT

PURSUANT TO THE FOREGOING STIPULATION, IT IS SO ORDERED.

Dated: \_\_June 27, 2005

/s/ OLIVER W. WANGER

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HON. OLIVER W. WANGER  
UNITED STATES DISTRICT JUDGE